
STATUTORY INSTRUMENTS

1982 No. 1537 (N.I. 20)

NORTHERN IRELAND

The Planning (Amendment) (Northern Ireland) Order 1982

Laid before Parliament in draft

Made 27th October 1982

Coming into Operation 9th December 1982

ARRANGEMENT OF ORDER

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SCHEDULES:

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At the Court of Saint James, the 27th day of October 1982

Present,

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 30th day of September 1982, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, Countess of Snowdon, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (a), and of all other powers enabling Her Majesty in that behalf, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Planning (Amendment) (Northern Ireland) Order 1982.

(2) This Order shall come into operation on the expiration of six weeks from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (b) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order “the Planning Order” means the Planning (Northern Ireland) Order 1972 (c).

Amendments of the Planning Order

Planning consents

3.—(1) In Article 14 of the Planning Order (form and content of applications for planning permission) after paragraph (2) there shall be added the following paragraph—

“(3) Paragraphs (1) (a) and (b) and (2) (b) shall apply to applications to the Department for any consent, agreement or approval of the Department required by a condition imposed on a grant of planning permission as they apply to applications for planning permission.”.

(2) In Article 23 of the Planning Order (appeals to planning appeals commission against certain decisions of Department)—

(a) paragraph (1) shall cease to have effect;

(a) 1974 c. 28. (b) 1954 c. 33 (N.I.) (c) S.I. 1972/1634 (N.I. 17).

(b) in paragraph (2) after sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(aa) for any consent, agreement or approval of the Department required by a condition imposed on a grant of planning permission; or”

and after the words “that permission” there shall be inserted the words “, consent, agreement”;

(c) after paragraph (2) there shall be inserted the following paragraph—

“(2A) Paragraph (2) shall not apply to any application in relation to which the Department has served a notice under Article 22 (1)”.

(3) In Article 24 of the Planning Order (appeal in default of planning decision) for the words from the beginning to “development order” there shall be substituted the words “Where any such application as is mentioned in Article 23 (2) is made to the Department” and in paragraph (i) after the word “permission” there shall be inserted the words “, consent, agreement”.

Issue of certificate that building is not intended to be listed

4. After Article 31 of the Planning Order there shall be inserted the following Article—

“Issue of certificate that building is not intended to be listed

31A.—(1) Where—

(a) application has been made for planning permission for any development involving the alteration, extension or demolition of a building; or

(b) any such planning permission has been granted,

the issue by the Department, on the application of any person, of a certificate stating that it does not intend to list the building shall preclude the Department, for a period of five years from the date of issue of the certificate, from exercising in relation to that building any of the powers conferred on it by Article 31.

(2) An application for the issue of a certificate under paragraph (1) shall be made to the Department in writing and Article 16 shall apply in relation to an application for the issue of a certificate under paragraph (1) as it applies in relation to an application for planning permission.

(3) Before issuing any certificate under paragraph (1), the Department shall consult with the Historic Buildings Council and with the appropriate district council.”.

Listed building consent given after execution of works

5.—(1) In Article 32 of the Planning Order (control of works for demolition, alteration or extension of listed buildings)—

(a) in paragraph (1) for the words “under this Part” there shall be substituted the words “under paragraph (2)”;

(b) in paragraph (2) the words “only” and “(in this Order referred to as “listed building consent”)” shall cease to have effect;

(c) after paragraph (2) there shall be inserted the following paragraphs—

“(2A) If written consent is granted by the Department for the retention of works for the demolition of a listed building, or for its alteration or extension, which have been executed without consent

under paragraph (2), the works are authorised under this Part from the grant of the consent under this paragraph.

(2B) Consent under paragraph (2) or (2A) is referred to in this Order as “listed building consent”.

(2) After Article 50 of the Planning Order there shall be inserted the following Article—

“Effect of listed building consent on listed building enforcement notice

50A.—(1) If, after the issue of a listed building enforcement notice, consent is granted under Article 32 (2A) for the retention of any work to which the listed building enforcement notice relates, the listed building enforcement notice shall cease to have effect in so far as it requires steps to be taken which would involve the works not being retained in accordance with the consent.

(2) If the consent is granted so as to permit the retention of works without complying with some condition subject to which a previous listed building consent was granted, the listed building enforcement notice shall cease to have effect in so far as it requires steps to be taken for complying with that condition.

(3) The preceding provisions of this Article shall be without prejudice to the liability of any person for an offence in respect of a failure to comply with the listed building enforcement notice before the relevant provisions of that notice ceased to have effect.”.

Listed building consent: miscellaneous amendments

6.—(1) In Article 33 of the Planning Order (supplementary provisions about listed building consent)—

- (a) paragraph (2) shall cease to have effect;
- (b) in paragraph (3) for the words “consists in or includes works for the alteration or extension of a listed building” there shall be substituted the words “affects a listed building or its setting” and after the words “the building” there shall be inserted the words “or its setting”;
- (c) in paragraph (4) for the words from the beginning to “paragraph (2)” there shall be substituted the words—

“(4) Listed building consent may be refused, or granted either unconditionally or subject to conditions.

(4A) Without prejudice to the generality of paragraph (4), the conditions subject to which listed building consent may be granted”;

- (d) for paragraph (5) there shall be substituted the following paragraph—

“(5) Listed building consent for the demolition of a listed building may be granted subject to a condition that the building shall not be demolished before a contract for the carrying out of works of redevelopment of the site has been made, and planning permission has been granted for the redevelopment for which the contract provides.”.

(2) After Article 33 of the Planning Order there shall be inserted the following Article—

“Duration of listed building consent

33A.—(1) Subject to the provisions of this Article, every listed building consent shall be granted subject to the condition that the works to which it relates must be begun not later than the expiration of—

- (a) five years beginning with the date on which the consent is granted; or
 - (b) such other period (whether longer or shorter) beginning with the said date as the Department may direct, being a period which the Department considers appropriate having regard to any material considerations.
- (2) If listed building consent is granted without the condition required by paragraph (1), it shall be deemed to have been granted subject to the condition that the works to which it relates must be begun not later than the expiration of five years beginning with the date of the grant.
- (3) If listed building consent was granted before the date on which the Planning (Amendment) (Northern Ireland) Order 1982 came into operation and without the condition required by paragraph (1) or any other condition as to the time within which the works to which it relates must be begun, then—
- (a) if the works to which it relates have been begun before that date, it shall continue to have effect without those conditions;
 - (b) if the works to which it relates have not been begun before that date, it shall be deemed to have been granted subject to the condition that those works must be begun not later than the expiration of five years beginning with that date.
- (4) Nothing in this Article applies to any consent to the retention of works granted under Article 32 (2A).”.

Enforcement notices

7. For Article 42 of the Planning Order there shall be substituted the following Article—

“Enforcement notices

42.—(1) Where it appears to the Department that there has been a breach of planning control after 25th August 1974 then, subject to this Article, the Department, if it considers it expedient to do so having regard to the provisions of the development plan and to any other material considerations, may issue a notice requiring the breach to be remedied and serve copies of the notice in accordance with paragraph (5).

(2) A notice under this Article is referred to in this Order as an “enforcement notice”.

(3) There is a breach of planning control—

- (a) if development has been carried out without the grant of the planning permission required in that behalf in accordance with Part IV; or
- (b) if any conditions or limitations subject to which planning permission was granted have not been complied with.

(4) Where an enforcement notice relates to a breach of planning control consisting in—

- (a) the carrying out without planning permission of building, engineering, mining or other operations in, on, over, or under land; or
- (b) the failure to comply with any condition or limitation which relates to the carrying out of such operations and subject to which planning permission was granted for the development of that land; or
- (c) the making without planning permission of a change of use of any building to use as a single dwelling-house; or

- (d) the failure to comply with a condition which prohibits or has the effect of preventing a change of use of a building to use as a single dwelling house;

it may be issued—

- (i) in the case of a failure to comply with any condition or limitation which relates to the carrying out of mining operations, only within the period of four years from the date on which that failure came to the knowledge of the Department;

- (ii) in any other case, only within the period of four years from the date of the breach.

(5) A copy of an enforcement notice shall be served not later than 28 days after the date of its issue and not later than 28 days before the date specified in the notice as the date on which it is to take effect—

- (a) on the owner and on the occupier of the land to which it relates; and
- (b) on any other person having an estate in that land, being an estate which in the opinion of the Department is materially affected by the notice.

(6) An enforcement notice shall specify the matters alleged to constitute a breach of planning control.

(7) An enforcement notice shall also specify—

- (a) any steps which are required by the Department to be taken in order to remedy the breach;
- (b) any such steps as are referred to in paragraph (10) and are required by the Department to be taken.

(8) An enforcement notice shall specify the period within which any such step as is mentioned in paragraph (7) is to be taken and may specify different periods for the taking of different steps.

(9) In this Article “steps to be taken in order to remedy the breach” means (according to the particular circumstances of the breach) steps for the purpose—

- (a) of restoring the land to its condition before the development took place; or
- (b) of securing compliance with the conditions or limitations subject to which planning permission was granted,

including—

- (i) the demolition or alteration of any building or works;
- (ii) the discontinuance of any use of land; and
- (iii) the carrying out on land of any building or other operations.

(10) The steps mentioned in paragraph (7)(b) are steps for the purpose—

- (a) of making the development comply with the terms of any planning permission which has been granted in respect of the land; or
- (b) of removing or alleviating any injury to amenity which has been caused by the development.

(11) Where the matters which an enforcement notice alleges to constitute a breach of planning control include development which has involved the making of a deposit of refuse or waste materials on land, the notice may require that the contour of the deposit shall be modified by altering the gradient or gradients of its sides in such manner as may be specified in the notice.

(12) If, on a complaint by the owner of any land, it appears to a court of summary jurisdiction that the occupier of that land prevents the owner from executing any work which he is required to execute under this Part, the court may order the occupier to permit the execution of the work.

(13) Subject to Article 43, an enforcement notice shall take effect on a date specified in it.

(14) The Department may withdraw an enforcement notice (without prejudice to its power to issue another) at any time before it takes effect.

(15) If it does so the Department shall forthwith give notice of the withdrawal to every person who was served with a copy of the notice.

(16) Where—

(a) an enforcement notice has been issued in respect of development consisting of the erection of a building or the carrying out of works without the grant of planning permission; and

(b) the notice has required the taking of steps for a purpose mentioned in paragraph (10) (b); and

(c) the steps have been taken,

for the purposes of this Order planning permission for the retention of the building or works as they are as a result of compliance with the notice shall be deemed to have been granted on an application for such permission made to the Department.”.

Appeal against enforcement notices

8. For Article 43 of the Planning Order there shall be substituted the following Articles—

“Appeal against enforcement notices

43.—(1) A person having an estate in the land to which an enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the planning appeals commission against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds—

(a) that planning permission ought to be granted for the development to which the notice relates or, as the case may be, that a condition or limitation alleged in the enforcement notice not to have been complied with ought to be discharged;

(b) that the matters alleged in the notice do not constitute a breach of planning control;

(c) that the breach of planning control alleged in the notice has not taken place;

(d) in the case of a notice which, by virtue of Article 42 (4), may be issued only within the period of four years specified in that paragraph, that that period had elapsed at the date when the notice was issued;

(e) in the case of a notice not falling within sub-paragraph (d), that the breach of planning control alleged by the notice occurred before 26th August 1974;

(f) that copies of the enforcement notice were not served as required by Article 42 (5);

(g) that the steps required by the notice to be taken exceed what is

necessary to remedy any breach of planning control or to achieve a purpose specified in Article 42 (10);

(h) that the period specified in the notice as the period within which any step is to be taken falls short of what should reasonably be allowed.

(3) An appeal under this Article shall be made by notice in writing to the planning appeals commission, and such notice shall indicate the grounds of the appeal and state the facts on which it is based.

(4) Where it receives a notice of appeal under this Article against an enforcement notice relating to any land, the planning appeals commission shall notify the district council for the district within which the land is situated and in exercising its powers under Article 43B the commission shall take into account any representations received by the commission from the district council.

(5) Before determining an appeal under this Article, the planning appeals commission shall, if either the appellant or the Department so desires, afford to each of them an opportunity of appearing before and being heard by the commission.

(6) Articles 15 and 17 (2) shall apply, with any necessary modifications, in relation to an appeal to the planning appeals commission under this Article as they apply to an application for planning permission to the Department.

(7) Where an appeal is brought under this Article, the enforcement notice shall be of no effect pending the final determination or the withdrawal of the appeal.

(8) Subject to paragraph (9), the validity of an enforcement notice shall not, except by way of an appeal under this Article, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.

(9) Paragraph (8) shall not apply to proceedings brought under Article 44 (5) against a person who—

(a) has held an estate in the land since before the enforcement notice was issued;

(b) did not have a copy of the enforcement notice served on him; and

(c) satisfies the court that—

(i) he did not know and could not reasonably have been expected to know that the enforcement notice had been issued; and

(ii) his interests have been substantially prejudiced by the failure to serve him with a copy of it.

Appeals against enforcement notices – general supplementary provisions

43A.—(1) On an appeal under Article 43 the planning appeals commission shall quash the enforcement notice, vary the terms of the notice or uphold the notice.

(2) On such an appeal the planning appeals commission may correct any informality, defect or error in the enforcement notice, or vary its terms, if it is satisfied that the correction or variation can be made without injustice to the appellant or to the Department.

(3) Where it would otherwise be a ground for determining such an appeal in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the planning appeals

commission may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

Appeals against enforcement notices – supplementary provisions relating to planning permission

43B.—(1) On the determination of an appeal under Article 43, the planning appeals commission may—

- (a) grant planning permission for the development to which the enforcement notice relates or for part of that development or for the development of part of the land to which the enforcement notice relates;
- (b) discharge any condition or limitation subject to which planning permission was granted.

(2) In considering whether to grant planning permission under paragraph (1), the planning appeals commission shall have regard to the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations; and any planning permission granted under paragraph (1) may—

- (a) include permission to retain or complete any buildings or works on the land, or to do so without complying with some condition attached to a previous planning permission;
- (b) be granted subject to such conditions as the planning appeals commission thinks fit;

and where under that paragraph the planning appeals commission discharges a condition or limitation, it may substitute another condition or limitation for it, whether more or less onerous.

(3) Where an appeal against an enforcement notice is brought under Article 43, the appellant shall be deemed to have made an application for planning permission for the development to which the notice relates and, in relation to any exercise by the planning appeals commission of its powers under paragraph (1)—

- (a) any planning permission granted under that paragraph shall be treated as granted on that application;
- (b) in relation to a grant of planning permission or a determination under that paragraph, the decision of the planning appeals commission shall be final; and
- (c) subject to sub-paragraph (b), any planning permission granted under that paragraph shall have the like effect as a permission granted under Part IV.”.

Listed building enforcement notices

9. For Article 49 of the Planning Order there shall be substituted the following Article—

“Listed building enforcement notices

49.—(1) Where it appears to the Department that any works have been or are being executed to a listed building and are such as to involve a contravention of Article 32 (1) or (3), then, subject to paragraph (3), the Department may, if it considers it expedient to do so having regard to the

effect of the works on the character of the building as one of special architectural or historic interest, issue a notice—

- (a) specifying the alleged contravention; and
- (b) requiring such steps as may be specified in the notice to be taken within such period as may be so specified—
 - (i) for restoring the building to its former state; or
 - (ii) where the Department considers that such restoration would not be reasonably practicable, or would be undesirable, for executing such further works specified in the notice as it considers necessary to alleviate the effect of the works which were carried out without listed building consent; or
 - (iii) for bringing the building to the state in which it would have been if the terms and conditions of any listed building consent which has been granted for the works had been complied with.

(2) A notice under this Article is referred to in this Order as a “listed building enforcement notice”.

(3) A listed building enforcement notice shall not be served in relation to a contravention of Article 32 (1) or (3) which occurred more than four years before the date on which the Planning (Amendment) (Northern Ireland) Order 1982 came into operation.

(4) Subject to Article 50, a listed building enforcement notice shall take effect on a date specified in it.

(5) Where a listed building enforcement notice imposes any such requirement as is mentioned in paragraph (1) (b) (ii), listed building consent shall be deemed to be granted for any works of demolition, alteration or extension of the building executed as a result of compliance with the notice.

(6) Articles 42 (5), (12), (14) and (15) and 44 and 46 shall, with any necessary modifications, apply to a listed building enforcement notice as they apply to an enforcement notice.”.

Appeal against listed building enforcement notice

10. For Article 50 of the Planning Order there shall be substituted the following Article—

“Appeal against listed building enforcement notice

50.—(1) A person having an estate in the building to which a listed building enforcement notice relates may, at any time before the date specified in the notice as the date on which it is to take effect, appeal to the planning appeals commission against the notice on any of the following grounds—

- (a) that the matters alleged to constitute a contravention of Article 32 do not involve such a contravention;
- (b) that the contravention of that Article alleged in the notice has not taken place;
- (c) that the contravention of that Article alleged in the notice occurred before the beginning of the period of four years before the date on which the Planning (Amendment) (Northern Ireland) Order 1982 came into operation;
- (d) that the works were urgently necessary in the interests of safety or health or for the preservation of the building;

- (e) that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged or different conditions substituted;
- (f) that copies of the notice were not served as required by Article 42 (5) as applied by Article 49 (6);
- (g) that the period specified in the notice as the period within which any step required thereby is to be taken falls short of what should reasonably be allowed;
- (h) except in relation to such a requirement as is mentioned in Article 49 (1) (b) (ii) or (iii), the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
- (i) that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;
- (j) that steps required to be taken by virtue of Article 49 (1) (b) (ii) exceed what is necessary to alleviate the effect of the works executed to the building;
- (k) that steps required to be taken by virtue of Article 49 (1) (b) (iii) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.

(2) Paragraphs (3) to (7) of Article 43 and Article 43A shall, with any necessary modifications, apply to an appeal under this Article against a listed building enforcement notice as they apply to an appeal under Article 43 against an enforcement notice.

(3) On the determination of an appeal under this Article, the planning appeals commission may—

- (a) grant listed building consent for the works to which the listed building enforcement notice relates or for part only of those works;
- (b) discharge any condition or limitation subject to which listed building consent was granted and substitute any other condition, whether more or less onerous.

(4) Any listed building consent granted by the planning appeals commission under paragraph (3) shall, subject to paragraph (5), have the like effect as a listed building consent granted under Part V.

(5) The decision of the commission in relation to the grant of listed building consent under paragraph (3) shall be final.

(6) The validity of a listed building enforcement notice shall not, except by way of an appeal under this Article, be questioned in any proceedings whatsoever on any of the grounds on which such an appeal may be brought.”.

Enforcement of duties as to replacement of trees

11. After Article 50A of the Planning Order (inserted by Article 5 (2)) there shall be inserted the following Article—

“Enforcement of duties as to replacement of trees

50B.—(1) If it appears to the Department that any conditions of a consent given under a tree preservation order which require the replacement

of trees are not complied with in the case of any tree or trees, the Department may at any time within four years from the date of the alleged failure to comply with the said conditions, issue a notice requiring a tree or trees of such size and species as may be specified in the notice to be planted within such period as may be so specified.

(2) Articles 42 (5), (12), (14) and (15) and 44 and 46 shall with any necessary modifications apply to a notice under this Article as they apply to an enforcement notice.

(3) Subject to the following provisions of this Article, a notice under this Article shall take effect on a date specified in it.

(4) A person having an estate in the land to which a notice under this Article relates may, at any time before the date specified in the notice as the date on which it is to take effect, by notice in writing appeal to the planning appeals commission.

(5) Where an appeal is brought under paragraph (4), the notice under this Article shall be of no effect pending the final determination or the withdrawal of the appeal.

(6) Article 43A shall, with any necessary modifications, apply to an appeal against a notice under this Article as it applies to an appeal against an enforcement notice.”.

Purchase notices

12.—(1) Article 71 of the Planning Order (action by Department following service of purchase notice) shall be renumbered as paragraph (1) of that Article, in that paragraph the words “within two months” shall cease to have effect and after that paragraph there shall be inserted the following paragraph—

“(2) The Department shall comply with paragraph (1)—

(a) in any case where an appeal under Article 23 relating to the land—
(i) is pending on the date on which the purchase notice was served;
or

(ii) is made within two months of that date,

within two months of the date on which the appeal is disposed of;

(b) in any other case, within two months of the date on which the purchase notice was served.”.

(2) In Article 72 of the Planning Order (further grounds of objection to purchase notice)—

(a) in paragraph (1) after the words “any land” there shall be inserted the words “which consists of or includes the whole or part of any land”;

(b) in paragraph (3) after the word “land” in the first two places where it occurs there shall be inserted the words “to which the purchase notice relates (or part of that land)”.

(3) In Article 74 (7) (b) for the words from “Article” to the end there shall be substituted the words “Article 71 (1) (a) or the date on which the period referred to in Article 71 (2) expires, whichever is the earlier”.

Fees for planning applications

13.—(1) For Article 105A of the Planning Order there shall be substituted the following Article—

“Fees for planning applications

105A.—(1) The Department may by regulations make such provision as it thinks fit for the payment of a fee of the prescribed amount in respect of—

- (a) an application made to the Department under the Planning (Northern Ireland) Orders 1972 to 1982 for any permission, consent, approval, determination or certificate;
- (b) an application for planning permission which is deemed to be made to the planning appeals commission under those Orders;
- (c) an appeal to the planning appeals commission under those Orders;

and every such application to the Department and every notice of appeal to the planning appeals commission shall be accompanied by the prescribed fee (if any).

(2) The regulations may provide for the remission or refunding of a prescribed fee (in whole or in part) in prescribed circumstances.”

(2) Article 10 of the Local Government, Planning and Land (Northern Ireland) Order 1981 (a) (which is superseded by paragraph (1)) is hereby repealed.

Registration of matters in Statutory Charges Register

14.—(1) At the end of Schedule 4 to the Planning Order (matters requiring to be registered in the Statutory Charges Register) there shall be added the following entries—

“5. Any conditions imposed under Article 18 (1) (a) on the grant of planning permission requiring that a dwelling house on any land which is under the control of the applicant but is not land in respect of which the application for planning permission was made be demolished or cease to be used as a dwelling house.

6. Notices under Article 50B which take effect in relation to any land.”

(2) In Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (b) (matters requiring to be registered in the Statutory Charges Register) after entry 30 there shall be inserted the following entries—

“30A. Any conditions imposed under Article 18 (1) (a) of the Planning (Northern Ireland) Order 1972 on the grant of planning permission requiring that a dwelling house on any land which is under the control of the applicant but is not land in respect of which the application for planning permission was made be demolished or cease to be used as a dwelling house.

30B. Notices under Article 50B of the Planning (Northern Ireland) Order 1972 which take effect in relation to any land.”

Time limit for certain summary offences under Planning Order

15.—(1) Notwithstanding anything in Article 19 (1) (a) of the Magistrates’ Courts (Northern Ireland) Order 1981 (c), a magistrates’ court shall have jurisdiction to hear and determine a complaint charging the commission of an offence under a provision of the Planning Order specified in paragraph (2) if the complaint is made within three years from the time when the offence was committed or ceased to continue.

(a) S.I. 1981/437 (N.I. 13). (b) 1970 c. 18 (N.I.). (c) S.I. 1981/1675 (N.I. 26).

(2) The provisions of the Planning Order referred to in paragraph (1) are—

- (a) Article 40 (1);
- (b) Article 44 (1);
- (c) Article 44 (5) (a);
- (d) Article 45 (7).

(3) This Article does not apply to a complaint charging the commission of an offence which was committed or ceased to continue on a date earlier than six months before the date on which this Order comes into operation.

Inclusion of certain matters in development orders

16.—(1) Articles 14, 16 (7), 22 (1), 24, 67 (4) and 70 (1) of the Planning Order shall, in so far as they authorise or require matters to be prescribed by regulations, have effect, and be deemed always to have had effect, as if they authorised or, as the case may be, required those matters to be specified in a development order.

(2) Nothing in paragraph (1) or in Schedule 1 so far as it amends Article 14, 16 (7) or 24 of the Planning Order shall affect those Articles as they are applied by virtue of Article 34 of the Planning Order to applications for listed building consent.

(3) Article 14 of the Planning (General Development) Order (Northern Ireland) 1973 (a) is hereby revoked.

Other amendments relating to planning

Planning blight

17.—(1) The Planning Blight (Compensation) (Northern Ireland) Order 1981 (b) shall have effect subject to the following provisions of this Article.

(2) In Article 2 (2)—

- (a) at the end of the definition of “annual value” there shall be added the words “or in relation to land certified by the Commissioner of Valuation under this paragraph means the net annual value as it appears in such a certificate”;
- (b) in the definition of “blight notice” for the words “or 14” there shall be substituted the words “12 or 14 which has not been withdrawn”.

(3) In Article 3 (1) (d) for the word “provide” in both places where it occurs there shall be substituted the words “construct, improve or alter” and after the words “route of the road” there shall be inserted the words “or (as the case may be) the proposed extent of the improvement or alteration”.

(4) In Article 3 (1) (e) for the word “provide” there shall be substituted the words “construct, improve or alter”.

(5) In Article 4 (5) for the word “tenancy” there shall be substituted the words “legal tenancy”.

(6) In Article 8 after paragraph (3) there shall be inserted the following paragraph—

“(3A) A claimant may withdraw a blight notice at any time before the amount to be paid for the interest of the claimant has been agreed with the appropriate authority or determined by the Lands Tribunal or at any time before the end of six weeks beginning with the date on which that amount is so agreed or determined; and where a blight notice is withdrawn by virtue

(a) S.R. & O. (N.I.) 1973 No. 326. (b) S.I. 1981/608 (N.I. 16).

of this paragraph any contract deemed to have been made in consequence thereof shall be deemed not to have been made.”.

Planning compensation

18. In section 29 of the Land Development Values (Compensation) Act (Northern Ireland) 1965 (a) (compensation for planning decisions restricting development other than new development)—

- (a) in subsection (1) for the words “subsection (3)” there shall be substituted the words “subsections (2A), (3) and (3A)”;
- (b) after subsection (2) there shall be inserted the following subsection—

“(2A) Compensation shall not be payable under this section in relation to such a planning decision as is mentioned in subsection (1) whereby permission to carry out any development of a class specified in paragraphs 1 to 3 of Schedule 1 in relation to a building is refused if by virtue of any other previous planning permission it remains a condition of such planning permission (however expressed) that the building be demolished or cease to be used as a dwelling house.”;
- (c) after subsection (3) there shall be inserted the following subsection—

“(3A) Compensation shall not be payable under this section on more than one occasion in relation to any estate in land.”.

Supplementary

Transitional provision, amendments and repeals

19.—(1) If on the date on which this Order comes into operation an appeal to a court of summary jurisdiction is pending under Article 43 or 50 of the Planning Order, the appeal shall be heard and determined by that court as if this Order had not been made.

(2) The statutory provisions set out in Schedule 1 shall have effect subject to the amendments specified in that Schedule.

(3) The statutory provisions set out in Schedule 2 are hereby repealed to the extent specified in the third column of that Schedule.

N. E. Leigh,
Clerk of the Privy Council.

SCHEDULES

Article 19 (2).

SCHEDULE 1

AMENDMENTS

*The Planning (Northern Ireland) Order 1972
(S.I. 1972/1634 (N.I. 17))*

In Article 14—

- (a) in paragraph (1) (a) for the word “prescribed” there shall be substituted the words “specified by a development order”;
- (b) in paragraph (1) (b) for the words “the regulations” there shall be substituted the words “a development order”;
- (c) in paragraph (2) for the word “regulations” there shall be substituted the words “a development order” and for the word “prescribed” wherever it occurs there shall be substituted the words “specified by the order”.

In Article 16 (7) for the word “prescribed” there shall be substituted the words “specified in a development order” and for the words “prescribed form” there shall be substituted the words “form so specified”.

In Article 22 (1) for the words “the prescribed form” there shall be substituted the words “such form as may be specified by a development order”.

In Article 22 (5) the words “for planning permission” shall cease to have effect.

In Article 24 for the word “prescribed” there shall be substituted the words “specified by a development order” and for the words “said prescribed period” there shall be substituted the words “period so specified”.

In Article 44 (1) for the words from “where” to “it” there shall be substituted the words “where a copy of an enforcement notice has been served on the person who, at the time when the copy was served on him, was the owner of the land to which the notice”.

In Article 44 (4) and (5) (b) for the words “£50” there shall be substituted the words “£100”.

In Article 45—

- (a) in paragraph (1) after the word “served” there shall be inserted the words “a copy of” and the word “further” shall be omitted;
- (b) in paragraph (7) for the words “£50” there shall be substituted the words “£100”;
- (c) in paragraph (7B) after the words “reason that” there shall be inserted the words “a copy of” and for the words “42 (4)” there shall be substituted the words “42 (5)”.

In Article 46 (1) after the words “any steps” there shall be inserted the words “which by virtue of Article 42 (7) (a) are”.

In Article 47 (1) after the words “service of” there shall be inserted the words “a copy of”.

In Article 48—

- (a) in paragraph (1) (a) after the word “the” there shall be inserted the word “completion”;
- (b) in paragraph (5) for the words “£400” there shall be substituted the words “£1,000”.

In Article 51 (2) for the words “£100” and “£5” there shall be substituted respectively the words “£200” and “£20”.

In Article 66 (1) after the word “entitled” there shall be inserted the words “subject to such exceptions as may be prescribed”.

Article 67 shall, in relation to stop notices first served after the commencement of this Order, have effect subject to the following amendments, namely—

(a) for paragraph (1) there shall be substituted the following paragraph—

“(1) A person who, when a stop notice under Article 45 is first served, has an estate in or occupies the land to which the stop notice relates shall, in any of the circumstances mentioned in paragraph (2), be entitled to be compensated by the Department in respect of any loss or damage directly attributable to the prohibition contained in the notice (or, in a case within sub-paragraph (b) of that paragraph, so much of that prohibition as ceases to have effect).”;

(b) in paragraph (2) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

“(a) the enforcement notice is quashed on grounds other than those mentioned in Article 43 (2) (a);

(b) the enforcement notice is varied, otherwise than on the grounds mentioned in Article 43 (2) (a), so that the matters alleged to constitute a breach of planning control cease to include one or more of the activities prohibited by the stop notice;”.

In Articles 67 (4) and 70 (1) for the word “prescribed” there shall be substituted the words “specified by a development order”.

In Article 95 (2) (b) (iv) for the words “Article 42 (6) and (8)” there shall be substituted the words “Article 42 (9)”.

In Article 101 (1) (c) after the word “make” there shall be inserted the word “issue”.

In Article 104 (1) after the words “order or” there shall be inserted the words “issue or” and after the words “required to make” there shall be inserted the word “issue”.

*The Planning (Amendment) (Northern Ireland) Order 1978
(S.I. 1978/1048 (N.I. 18))*

In Article 4 the following provisions shall cease to have effect, namely—

(a) paragraph (3);

(b) in paragraph (4) (a) the words “or to an individual building so specified”;

(c) in paragraph (5) (a) the words “if the direction relates to a specified description of buildings”;

(d) paragraph (5) (b) and the word “and” immediately preceding it.

In Article 4 (6) for the words “Article 33 (3) and (5)” there shall be substituted the words “Article 33 (3) to (5)”.

In Article 10 (2) at the end there shall be added the words—“Article 43B(2)”.

REPEALS

Chapter or Number	Short Title	Extent of Repeal
S.I. 1972/1634 (N.I. 17).	The Planning (Northern Ireland) Order 1972.	<p>Article 14 (1) (c).</p> <p>In Article 22 (5) the words “for planning permission”.</p> <p>Article 23 (1).</p> <p>Article 23 (3) (b).</p> <p>In Article 32 (2) the words “only” and “(in this Order referred to as “listed building consent”)”.</p> <p>Article 33 (2).</p> <p>In Article 71 the words “within two months”.</p>
S.I. 1973/1896 (N.I. 21).	The Land Acquisition and Compensation (Northern Ireland) Order 1973.	Article 67 (1).
S.I. 1978/1048 (N.I. 18).	The Planning Amendment (Northern Ireland) Order 1978.	<p>Article 4 (3).</p> <p>In Article 4 (4)(a) the words “or to an individual building so specified”.</p> <p>In Article 4 (5)(a) the words “if the direction relates to a specified description of buildings”.</p> <p>Article 4 (5)(b) and the word “and” immediately preceding it.</p> <p>Article 7.</p> <p>Article 12 (2) and (3).</p>
S.I. 1981/437 (N.I. 13).	The Local Government Planning and Land (Northern Ireland) Order 1981.	<p>Article 1 (3).</p> <p>Article 10.</p> <p>Article 14 (b) and (c).</p>

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes miscellaneous amendments to planning legislation, principally the Planning (Northern Ireland) Order 1972. The main amendments are—

- (a) to transfer appeals against enforcement notices from courts of summary jurisdiction to the planning appeals commission;
- (b) to make new provision for the issue and service of enforcement notices and to extend the range of steps which such notices can require to be taken;
- (c) to strengthen the planning control of listed buildings;
- (d) to confer a new right of appeal against a refusal of a planning consent, and against a notice requiring the replacement of a tree; and
- (e) to increase penalties for certain planning offences and to increase the time within which prosecutions for certain planning offences can be brought.

STATUTORY INSTRUMENTS

1982 No. 1537 (N.I. 20)

NORTHERN IRELAND

The Planning (Amendment) (Northern Ireland) Order 1982

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